

September 28, 1979

## CONGRESSIONAL RECORD—HOUSE

H 8713

Mr. Ford of Michigan with Mr. Horton.  
 Mr. Minish with Mr. Pashayan.  
 Mr. Davis of South Carolina with Mr. Hollenbeck.  
 Mr. Cotter with Mr. Blaggi.  
 Mr. John L. Burton with Mr. Ashley.  
 Mr. Breaux with Mr. Barnard.  
 Mr. Huckaby with Mr. AuCoin.  
 Mr. Lundine with Mr. Marks.  
 Mr. Cavanaugh with Mrs. Collins of Illinois.

Mr. DASCHLE and Mr. MARKEY changed their votes from "yea" to "nay." So the bill was passed.  
 The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chiriden, one of his secretaries, who also informed the House that on September 28, 1979, the President approved and signed a bill of the House of the following title:

H.R. 111. An act to provide for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977, and for other purposes.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 192. Concurrent resolution directing the Clerk of the House to make a correction in the enrollment of the bill, H.R. 3996.

## PERMISSION TO FILE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 404, CONTINUING APPROPRIATIONS, 1980

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the joint resolution (H.J. Res. 404) making continuing appropriations for fiscal year 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

## PERMISSION FOR COMMITTEE ON VETERANS' AFFAIRS TO FILE REPORT ON H.R. 5288 NOT LATER THAN FRIDAY NEXT

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be permitted to file a report on H.R. 5288 while the House is in recess next week, not later than Friday next.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## PERSONAL EXPLANATION

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, on September 27, 1979, I was unable to be present on the floor of the House of Representatives for rollcall No. 518 on an amendment to H.R. 5359, the Department of Defense appropriations, that would have provided for the consolidation of military helicopter pilot training programs. Had I been present, I would have voted "yea."

## PERSONAL EXPLANATION

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, on Tuesday, September 25, 1979, when the House considered House Joint Resolution 404, the fiscal year 1980 continuing resolution containing the proposed congressional and senior government officials pay raise, I voted "aye."

I was properly recorded by the electronic device and that vote reflected the technical parliamentary advice I received prior to my vote. It also reflected many of my basic feelings about the merits of the bill.

However, I should have voted "nay."

As the record of debate shows, I offered a motion to recommit House Joint Resolution 404 to the Committee on Appropriations.

The Speaker asked me if I qualified to offer the motion. As the ranking member of the Appropriations Committee I assumed I was qualified and so stated.

Upon further reflection and counseling with my friends and colleagues, I came to realize that the honorable, if not the technical, duty of a Member offering a motion to recommit is to vote against the bill on final passage.

Thus, I wish to take this occasion to apologize to the House for my error in not adhering to the strong expectation that an author of an unsuccessful motion to recommit will in turn vote "nay" on final passage.

## PRESS GALLERY ATTENDANCE

(Mr. WHITLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITLEY. Mr. Speaker, I noticed, and I think most of my colleagues did as well, a few days ago when we voted on the congressional pay raise, that there were a large number of people in the Press Gallery. As a matter of fact, I counted 33 people at the close of the rollcall. The congressional pay raise, as I recall, involved approximately \$1.3 million per year.

Today, Mr. Speaker, we just finished voting on the defense appropriations bill which involves \$123 billion. At the close of the rollcall I looked up at the Press

Gallery. There we two people there. They were paying no attention to the rollcall but were simply talking to each other. That may be a commentary on what the press thinks is important in this country.

## CONFERENCE REPORT ON S. 737, EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, pursuant to the unanimous-consent agreement of Tuesday, September 25, 1979, I call up the conference report on the Senate bill (S. 737) to provide authority to regulate exports, to improve the efficiencies of export regulation, and to minimize interference with the ability to engage in commerce.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the order of the House of September 25, 1979, the conference report is considered read.

(For conference report and statement, see proceedings of the House of September 27, 1979.)

The SPEAKER. The gentleman from New York (Mr. BINGHAM) will be recognized for 30 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

(Mr. BINGHAM asked and was given permission to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, first I would like to say the conference report is available to the Members in yesterday's RECORD starting at page H8666. That is for the particular edification of the gentleman from Maryland (Mr. BAUMAN) if he decides to study it, and copies are also available in mimeograph form.

Mr. Speaker, I believe that your conferees have brought back a good bill, an improvement over the existing legislation. This is a balanced bill. It does a lot for the export industry in terms of establishing procedures with deadlines and requiring the administration to specify what it is doing. It gives clear guidelines to industry so they will know where they stand.

□ 1350

In many ways, I think it will facilitate an expansion of our exports, which is one of the major purposes of this bill.

At the same time, this bill strengthens in a number of respects the provisions with regard to controls on exports for national security purposes.

It requires the Defense Department to proceed with the drawing up of a list of military critical technologies. It retains the so-called Jackson amendment in full, which gives the Defense Department a veto over all licenses. It increases and clarifies penalties for diversion and other violations.

I think on the whole it is an improvement over the bill that was reported out of our committee.

We have a successful conference to report to you. A quick count indicates that of the roughly 70 points at issue

H 8714

CONGRESSIONAL RECORD—HOUSE

September 28, 1979

between the House and the Senate, the House prevailed on about 40, the Senate on 20, and the House and the Senate provisions were combined on the remaining 10. Of the 15 or 20 amendments to the bill adopted by the House on the floor, all but one were sustained at least in essence by the conference. Many were sustained without change.

More important than these statistics is the actual substance of what we did on the more important House amendments. The Wolff amendment requiring negotiations to attempt to eliminate foreign availability was retained, but in the Senate form.

The Wolff amendment requiring reliable evidence of foreign availability was retained.

The Wolff amendment requiring sharing of foreign availability information was retained.

In my view, the essence of the Ichord amendment to the critical technologies provision was retained. We can discuss that in further detail as we continue this discussion. But, again in my view, the gentleman from Missouri has made a substantial contribution to the bill in focusing on the importance of military critical technologies and in giving the Defense Department clear instructions to proceed with the completion of that list within a reasonable period of time.

The Miller amendment on safeguards was retained. The Miller amendment requiring a cutoff of exports to diversifiers was retained, in essence, with a clarification which we felt was necessary in response to the Senate position. The Senate felt the amendment was vaguely drawn and had to be given a greater degree of specificity. This was predicted when we dealt with the amendment on the floor of the House.

The Dornan amendment requiring adequate recordkeeping was retained. The Dornan amendment providing penalties for failure to report diversion was retained and the fine was actually increased by making it five times the value of the export, or \$100,000, whichever is greater.

The Fenwick amendment on terrorism was retained.

The Findley amendment on short supply monitoring and controls was retained.

The Preyer amendment on confidentiality was retained.

I think we have a good report to bring back to you.

Mr. Speaker, before I yield the floor, I would like to express my appreciation to the conferees. They worked diligently under great pressure of time. I am particularly grateful to the conferees from the minority side.

Mr. Speaker, I would like to call attention to a typographical error in the statement of the managers that appears in the RECORD on page H8682. It does not contain the names of the gentleman from California (Mr. LAGOMARSINO) and the gentleman from New York (Mr. GILMAN), both of whom did, in fact, sign the conference report.

I would also like to express my appreciation for the really extraordinary work of the staff in getting this material together. It was a stupendous job done

under difficult circumstances in view of the pressure of time.

With that, Mr. Speaker, I yield to the gentleman from California (Mr. ANDERSON) for an inquiry.

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, if I could, I would like to have the gentleman address the provision pertaining to scrap metals, the so-called Findley amendment. During floor debate on this matter 10 days ago, the chairman, the gentleman from Wisconsin (Mr. ZABLOCKI) interpreted the intent of the amendment as one meaning to get at price increases resulting from exports, not from increased domestic buying.

Although I still do not favor inclusion of the provision, I am very concerned that even at this late point in our deliberations, the intent in including the provision be clarified.

Mr. BINGHAM. Mr. Speaker, the gentleman from California brings up a good point. As a matter of fact, in the conference report we include precise words which take care of that problem, saying that we are dealing here with an increase in domestic prices or domestic shortage, either of which results from increased exports; so the gentleman's interpretation is not only correct, but it has been clarified in precise language in the conference report.

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman very much.

Mr. BINGHAM. Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume. (Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, first of all, I would like to state for the record, as the gentleman from New York just did, that I did actively participate in the full range of discussions of the House-Senate conference on the Export Administration Act and I did sign the final report, although my name and that of the gentleman from New York (Mr. GILMAN), our names were mistakenly omitted from the RECORD.

Mr. Speaker, I rise in support of the conference report on the Export Administration Act of 1979.

As everyone is well aware, a great deal of time and very careful attention has been given to this extremely complex piece of legislation. While there have been very significant differences of opinion on both sides of the aisle as to intent and interpretation of various provisions of the bill, I believe the end result is one that both sides can be at least relatively happy with and can support.

Now, some changes were made in the conference with which I disagreed, but it is still in my opinion an improvement over the committee bill and over the present law.

For those who want enhanced opportunities for American businesses to increase their overseas markets, this legislation offers expedited procedures and

more precise guidelines, so that business can know with more certainty what to expect when seeking to export its products.

For those, like myself, who wants strengthened national security controls for exports of goods and technologies that might contribute significantly to the military potential of an adversary, this legislation provides for a strengthened role of the Department of Defense in that area.

The role of the Department of Defense is clarified as the department having primary responsibility for developing the list of military critical technologies which will be subject to national security controls, as provided in the Ichord amendment.

DOD will also have preserved its responsibility for approval of license applications for national security reasons, and in cases where there is disagreement by the President on a recommendation by DOD, the President must inform Congress of such a disagreement.

I might add, that where there is a difference between the Secretary of Defense and other secretaries, including the Secretary of Commerce, the amendment that was adopted in the conference, and as I say, over my objection, I preferred the form that had been submitted and adopted by the House, the President would make the final determination.

I think as a practical matter, that is where we are now, because if the President disagrees with the Secretary of Defense and the Secretary of Defense does not carry out his wishes, we would probably have a new Secretary of Defense.

Mr. ICHORD. Mr. Speaker, will the gentleman yield on that point?

Mr. LAGOMARSINO. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, let me state that I agree with the gentleman from California that I believe the bill which the gentleman brings from conference is definitely superior to the committee bill. I am not so sure that it is an improvement, however, over the existing law. I am afraid, and I am not particularly referring to my critical military technologies amendment, which was adopted, although I will say that the gentleman gave up considerably on the critical military technologies approach.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman let me reclaim my time just for that?

I did not give up, the conference gave up.

Mr. ICHORD. I understand that the gentleman from California did not.

I would state that I think they only kept about 10 percent of the Ichord amendment. It is true that they kept the provision to mandate the establishment of the critical military technologies approach, but they took away the fact that what the Secretary of Defense determines to be critical military technologies automatically would become part of the commodity control limit.

Yes, the Ichord amendment put that solely in the hands of the Secretary of Defense and stated that it shall go upon the control list.

September 28, 1979

CONGRESSIONAL RECORD—HOUSE

H 8715

□ 1400

As I understand it—and I would like the gentleman from New York to join in this colloquy—the Secretary of Commerce is in on the act also; is that not correct?

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield, let me say that the gentleman is correct.

But I would point out that there were other items in the Ichord amendment. For example, the first paragraph of the gentleman's amendment stated the intent of Congress that the control list should focus primarily on military critical goods and technologies. The conferees adopted an even stronger position from the Senate language, stating that the Secretary shall insure that the control list cover critical goods and technologies.

The gentleman's amendment also has a time limit on the submission of the initial version of the list. That was agreed to.

Mr. Speaker, I think that three-quarters of the gentleman's amendment was included.

Mr. LAGOMARSINO. Mr. Speaker, if I may add to what the subcommittee chairman has pointed out, an additional item to the Ichord amendment, I submit, is an improvement to the Ichord amendment in its original form, and that was adopted from the Senate language that had been proposed by Senator JACKSON. That language requires the President to notify Congress if he should in any event override the Secretary of Defense. That amendment, I understand, was going to be offered on the House floor, but it was not.

Mr. ICHORD. Mr. Speaker, if the gentleman will yield on that point. What do we have in this situation as to the critical military technology list?

If the Secretary of Defense makes a decision that a certain item or technology should go on the critical military technology list and the Secretary of Commerce overrules that, then it would go to the President of the United States for decision. Is that correct, I would ask the gentleman?

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield to me, that is so stated in the language agreed to by the conferees.

Mr. ICHORD. Mr. Speaker, does the gentleman from California (Mr. LAGOMARSINO) agree that that is the intent of this legislation?

First, may I say to the gentleman from New York (Mr. BINGHAM) and the gentleman from California (Mr. LAGOMARSINO) that this is a very complicated piece of legislation. I doubt if very many Members know what is in this bill. That is why I think it is so necessary to establish the legislative history.

Mr. LAGOMARSINO. Mr. Speaker, let me give the gentleman my understanding of that provision.

My understanding is that the Secretary of Defense would draw up the items for the list. If the Secretary of Commerce does not agree with that list, the President would make the final determination, and then, if the President over-

ruled the Secretary of Defense, which he could do anyway, as a practical matter, he would have to report that fact to the Congress.

Mr. ICHORD. That is as to the critical military technology list?

Mr. LAGOMARSINO. Yes.

Mr. ICHORD. Mr. Speaker, if the gentleman will yield further, I thank the gentleman from California (Mr. LAGOMARSINO) for his explanation. I would state to the gentleman from New York (Mr. BINGHAM) and the gentleman from California that I hope we can clear up this next problem as easily as we did that. Perhaps it may be that I personally will not have any objection to the bill.

What I am really concerned about in the conference report is what the conference committee did to an amendment offered by the gentleman from Ohio (Mr. MILLER). Let me direct the gentleman's attention to section 5(1) (2) in the bill.

Mr. LAGOMARSINO. Mr. Speaker, I wonder if the gentleman from Missouri (Mr. ICHORD) would allow me to finish my statement. I have another request from a Member who wants me to yield time.

Mr. ICHORD. I am sure the gentleman from New York (Mr. BINGHAM) will yield to me on this matter. I thank the gentleman from California (Mr. LAGOMARSINO) for yielding.

Mr. LAGOMARSINO. Mr. Speaker, I will yield to the gentleman from Missouri (Mr. ICHORD) later if he wishes.

Mr. HOPKINS. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Kentucky.

## PERSONAL EXPLANATION

Mr. HOPKINS. Mr. Speaker, I wish to take this opportunity to explain the necessity to leave today prior to the conclusion of all legislative business.

My wife, Carolyn, was operated on in Lexington University of Kentucky Medical Center this morning and it is important for me to be there.

I appreciate this opportunity to explain my absence the remainder of today.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding, and let me say that I appreciate his work on this important piece of legislation.

Mr. Speaker, I wonder if I might get the answer to one simple question.

Can an American manufacturer of an advanced computer with military capabilities export that computer to the Soviet Union under this provision of the conference report?

Mr. LAGOMARSINO. Not if he could not do that under present law. There is nothing in here that would allow him to do so. He would still have to get a validated license, and he would be subject to all the provisions in the law.

Mr. ASHBROOK. So it has not been made easier?

Mr. LAGOMARSINO. No, it has not.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for clearing that point up.

Mr. LAGOMARSINO. Mr. Speaker, if I may, let me resume my presentation.

Notwithstanding foreign availability, national security interests will be preserved under export controls, and re-export controls will be maintained. Reliable evidence of foreign availability must be established and recognition of the ineffectiveness of safeguards are included as new provisions in this legislation as is the requirement for halting further exports of technology when diversion to significant military use occurs.

The legislation requires negotiations to eliminate foreign availability of critical technologies and makes the role of technical advisory committees more explicit with respect to their functions in assisting the Secretary of Defense in decisions on national security controls.

The foreign policy provisions of this bill, I believe, make a substantial improvement in the existing law and will help get rid of some of the uncertainty in the business community.

With all that we have accomplished in committee, in the House and in conference, I believe we have struck a reasonable and realistic balance between preserving the national security interests of our country in exports of technology as well as providing greater certainty for business.

Also, I am confident that, as the legislation is implemented, Congress will continue to carry out its oversight responsibility to insure that the intent of the law is carried out. Certainly, as a member of the subcommittee having oversight jurisdiction for export controls, I will be paying very close attention to see that our national security interests are preserved.

Mr. Speaker, we have reached a point in time where failure to adopt any legislation on export controls would prove to be disastrous for our national security.

Mr. Speaker, as I understand the matter, if we do not have this law passed and signed by October 1, there will be no export controls whatsoever. Anybody could export anything they wanted to, and that would be, as I say, a disastrous situation.

Moreover, this legislation, I believe, stands on its own merits as an improvement over existing law and certainly over the bill that came out of committee, with all due deference to the committee.

For those compelling reasons, Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I would like to ask the chairman of the subcommittee if he would respond to a question.

There have been some concerns raised about this legislation by the gentleman from Ohio (Mr. MILLER) and by the gentleman from Missouri (Mr. ICHORD). I personally feel that their concerns, although certainly they are sincere about them, are not justified, in that I do not think that we have weakened the law in any way. But I would ask the subcommittee chairman if he would be willing to have hearings on this if it should develop that perhaps there is a problem.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I certainly would be glad to have hearings, and I would hold them in cooperation with the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I thank the chairman of the subcommittee.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there are several Members present today who have had the experience of dealing with the extension of the Export Administration Act at least once prior to this Congress, and it is never an easy task.

As I view the Export Administration Act, its purpose is to facilitate trade expansion, but at the same time it provides assistance by which the national security interests of the United States are thoroughly protected.

I believe the expiring act needed modernization, and I believe the gentleman from New York (Mr. BINGHAM) and the gentleman from California (Mr. LAGOMARSINO) have together stuck with a very difficult and challenging task with great tenacity. I think we should commend them for it. I think the product of their work is an excellent piece of legislation that will provide adequate safeguards for the national security interests and at the same time loosen up trade expansion opportunities which I think the business community and the labor community will welcome.

□ 1410

Mr. BINGHAM. Mr. Speaker, I would like to express my appreciation to the gentleman from Illinois (Mr. FINDLEY).

Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI asked and was given permission to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Speaker, I rise in support of the conference report on S. 737, the Export Administration Act of 1979.

First of all, I would like to commend the chairman of the Subcommittee on International Economic Policy and Trade, Mr. BINGHAM, and the ranking minority member, Mr. LAGOMARSINO, for the excellent leadership they have provided the Committee on Foreign Affairs on this bill. It was only through their diligence and hard work that we have been able to bring such a well-drafted bill back from the conference committee. As was stated, this is a complex subject. Therefore, so much the more the reason to commend your conferees for their work on this legislation.

The conference report is very close to the bill which this body passed earlier this week. It maintains the important provision on critical technologies and the provisions which seek to discourage diversion of dual-use items.

The report retains the House version of the provision which would establish a procedure for petitioning for the im-

position of controls or monitoring of metallic material capable of being recycled, if such material is facing a short supply situation or increased prices that would have an adverse impact on the economy or any sector thereof.

While the conference report adopted the form of the Senate bill of writing an entirely new act, all of the important new provisions and important changes were already in the House bill. The conference report follows the House direction in dividing up the section of the act that provides for authorities into three separate sections which clearly delineate the authorities for national security controls, foreign policy controls, and short supply controls.

Mr. Speaker, this is a well-balanced bill that protects the position the House took when it considered the bill and also balances the need to protect the national security with the need to increase U.S. exports. The bill will allow the relaxation of controls on less significant items which have little or no military importance, and will allow the focusing of controls on the more highly advanced technologies.

I urge the Members to support this conference report.

Mr. ICHORD. Mr. Speaker, will the distinguished gentleman from New York yield for the purpose of making legislative history?

Mr. BINGHAM. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. I appreciate the gentleman's yielding.

Mr. Speaker, I, to, want to commend the gentleman from New York and the gentleman from California for the very diligent efforts they have made to bring to this House legislation in this area.

I would state that the Export Administration Act does expire on September 30. I know that the gentleman from California has had views often differing from the gentleman from New York, as I have had views differing from the gentleman from New York, and I would point out to the Members of the House that this again is a very, very complicated matter. We are endeavoring to effect export controls to protect the domestic economy, to protect foreign affairs and to protect the national security.

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield, I could not agree more with the gentleman that this is a very complicated matter.

Mr. ICHORD. I think it is very important that we make legislative history as to what is meant by the language, and I would direct the attention of the gentleman from New York to section 5 (1), and this affects the amendment of the gentleman from Ohio (Mr. MILLER), about which I am greatly concerned.

The gentleman defines "diversion" as follows:

As used in this subsection, the terms "diversion to significant military use" and "significant military use" mean use of U.S. goods or technology to design or produce any items on the United States munitions list.

This is going to determine whether

I can support this bill or not. The legislative history that we make on this particular section is particularly important because this deals with the problem of diversion. There is no need to go over it. We know about the Kama River truck plant, the largest truck plant in the world, where the Soviets have used our technology; used it to produce military trucks.

There is a question of what constitutes a diversion. The Commerce Department has stated that there is no diversion except when the end-use restriction is on the export license. As I understand it, in the earlier part of this provision, in 5 (1) (1), you are going to require—and I have no objection to that—the end-use restriction to be on the export license itself. I think that clarifies whether you put it in the application or whether you put it in the export license. Personally, I think that clarifies the matter. It would be incumbent upon the Commerce Department to put that in the export license if they want to impose a restriction; is that correct, I will ask the gentleman from New York?

Mr. BINGHAM. Yes, that is correct, so far as that goes.

Mr. ICHORD. Now let us go on to 5 (1) (2), though, which also bears on the question of diversion—and this bothers me. If this is exclusive, if you are restricting a diversion to goods or technology to design or produce any items on the U.S. munitions list, let me state to the gentleman from New York that if this is exclusive, then you could export a computer, for example, to produce and design goods on the atomic energy list. It also excludes the commodity control list. I think you really have to explain this particular language if that is exclusive.

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield, I think I can reassure the gentleman. If the language used in subparagraph (2) there was applicable to the entire legislation, then I think you would have a real basis for concern, although not as great a basis of concern as I think perhaps the gentleman feels he does.

I would point out that military trucks, for example, are specifically included on the munitions list. But the point I want to make is that the definition that appears there is limited to this particular subsection and the particular automatic sanction it contains. It adds a whole new dimension to the tools that the Government has in controlling exports and responding to violations. But nothing in this subsection lessens or weakens the authorities or sanctions contained in other provisions of the bill. There are many ways in which the entire structure of the Export Administration Act is aimed at preventing diversions. Diversions are prohibited. There are pages of regulations to that effect.

The SPEAKER. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

Mr. BINGHAM. Mr. Speaker, I yield 2 additional minutes to the gentleman from Missouri.

Mr. Speaker, if the gentleman will yield further, this paragraph, the Miller

of Ohio amendment, was described to me yesterday by the responsible Acting Assistant Secretary of the Department of Commerce as a tough new provision because under paragraph (A) it leaves the administration no discretion about issuing licenses under the circumstances specified there. But all the powers that the Secretary of Commerce has, all of the powers that now exist in the administration to deny export licenses to stop various forms of diversion and other violations remain completely untouched and unweakened by this amendment. All exports, by the way, of computers of any degree of sophistication do contain end use restrictions—of that, the gentleman may rest assured.

Mr. ICHORD. I am not so sure that I made myself clear to the gentleman from New York. This particular provision ignores the existence of three lists, the international commodity control list maintained by Commerce, the atomic energy control list and the munitions list maintained by State. It is not meant to exclude those? This is not exclusive then?

Mr. BINGHAM. This applies only to this subsection and refers back to the prohibition contained in subparagraph 1 (a) and (b). And (a) is the key provision here, that the Secretary shall under these circumstances deny any further exports.

That is an automatic prohibition of exports which leaves the administration no discretion in such cases. But the other authorities the administration now has are untouched. Every day it is denying computer exports and requiring end-use restrictions on exports of significant military technology.

Mr. ICHORD. Let me specifically ask the gentleman from New York this question, and I am concerned about the export of computers, which both the gentleman from California and the gentleman from New York know can be used for civil or military purposes. Under this provision, can a computer that might be exported to the Soviet Union to support the Olympic games be used to provide for command and control for a modern air defense system without constituting a diversion?

Mr. BINGHAM. That would certainly be a diversion.

Mr. ICHORD. The use of a computer exported to the Soviet Union for the Olympic games if used for military purposes would definitely be a diversion?

Mr. BINGHAM. Provided that the condition is spelled out in the export license, it would be.

Mr. ICHORD. Mr. Speaker, let me say to the Members in the rear of the Chamber who are hollering for a vote that this could be the most important security matter that they pass upon if legislative history is not properly made this session.

The SPEAKER. The time of the gentleman from Missouri (Mr. ICHORD) has again expired.

Mr. BINGHAM. Mr. Speaker, I yield 1 additional minute to the gentleman from Missouri.

□ 1420

Mr. Speaker, if the gentleman will yield, I would say to the gentleman un-

der the circumstances he outlines that would definitely be a diversion subject to penalties under the act.

Mr. ICHORD. I appreciate that.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I would like to say that is certainly my understanding also and my intent, and should anyone attempt to do otherwise, it would be in violation of my understanding of what the law does and what the amendments to the law do.

Mr. ICHORD. Then with that understanding, I can support the position of the gentleman from California and the gentleman from New York.

Mr. BINGHAM. I appreciate that.

Mr. LAGOMARSINO. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, I have heard some remarks concerning some of the changes that were made in the conference, and I am sure good legislative history has been added to the report—even on my "diversion" amendment. But I still have many problems, and I find myself in a position of crossing swords with my friends, the gentleman from New York (Mr. BINGHAM); the gentleman from Wisconsin (Mr. ZABLOCKI); and the gentleman from California (Mr. LAGOMARSINO.)

I find that the amendment I offered which was approved on the House floor was diametrically changed in the conference so that it loses not only its meaning, but I feel it relaxes the controls that we have over the exports that we will be exporting in the future.

It changes my amendment where we specify that sanctions be taken in the case of the military diversion of U.S. products or technology. This sanction, and the main thrust of the amendment, stated that if it was revealed that some nation that we sold our technology, whether it be computers, or machine tools, or whatever, diverted that export to military use, we would prohibit further export of goods or services to that particular project or plant which was producing the item.

My amendment would work like this: We would not issue a license through the Commerce Department for the spare parts needed in order to keep that industrial plant operating. That was the guts of the amendment.

We have heard many times of the Kama River plant where truck engines and trucks are being manufactured. We have reports for example, that the engines being manufactured are being diverted for military equipment that could be used against our own forces.

My amendment was to cut off the spare parts to Kama River now that it has been shown the project is assisting the production of items on our munitions list.

The changes that have been made are unacceptable to me, and I am sure there are many of my colleagues here who did not really foresee how crucial these changes would be.

My amendment defined the words "diversion to significant military use" for

the first time in the Export Administration Act.

My intent was to make absolutely sure that sanctions would be enforced against the diversion of U.S. goods and technologies when reliable evidence showed that a diversion had taken place. The original House amendment defined diversion as "including but not limited to"—I repeat, "including but not limited to"—the production and design of military end products on the U.S. munitions list. The words "not limited to" were removed from the amendment by the conference. The words "not limited to" were in the amendment for two reasons.

First, "diversion" can occur in ways other than with respect to the "production" or "design" of items on the U.S. munitions list.

What about such significant uses as military training, field operations, production monitoring, missile guidance, and war games? I certainly consider such uses to provide significant military support.

Sanctions against the diversion to these end-uses exist today under the end-use provisions of the Export Administration regulations.

Under the wording of my amendment, however, as the conference has changed it, not only has my amendment been negated, but the sanctions that presently exist in the law and regulations could be wiped out.

If the conference language stands, the end-use provisions of the Export Administration regulations could be liberalized to an unacceptable event. Diversion could be defined very narrowly. The Soviets could, for example, divert U.S. technology such as technology used in the air traffic control systems to activities such as military signal testing, and get away with it.

I heard a few minutes ago that this very possibility could not happen under this act. However, the conference language causes me to doubt this assurance.

The SPEAKER. The time of the gentleman from Ohio (Mr. MILLER) has expired.

Mr. LAGOMARSINO. I yield 1 additional minute to the gentleman from Ohio.

Mr. MILLER of Ohio. Secondly, the United States maintains three export control lists, the commodity control list, known as the international list; the munitions list administered by the Department of State; and the atomic energy list, administered by the Department of Energy.

The changes made in conference make no mention of the diversion of U.S. products to the design and production of items on the other lists other than the munitions list.

If such diversion is not prohibited, we may end up allowing the Soviets to use our computers for making nuclear weapons with no clear recourse to stop U.S. support for the diversion.

The changes made in conference are therefore entirely unacceptable and only can be corrected by reinstatement of the House amendment in this original form.

Because of this conference change, it has opened up such a gigantic loophole



in the meaning of diversion, as defined by the current regulations, that I cannot support this outcome of the conference.

This change has crucially weakened the national security portion of the act; whereas, my amendment intended to strengthen national security controls to make clear that sanctions would be administered whenever military diversion of technology occurs.

The conference committee stated that a diversion to military use must involve a "violation of the conditions of an export license." The whole aim of the original House amendment was to avoid this game of semantics.

Significant evidence has recently come to light showing that the Commerce Department currently draws up licensing agreements so vaguely that the Soviets are able to divert the exported technology for military purposes (often to produce items on the U.S. munitions list) without technically violating the export arrangement.

Because the Export Administration Act, by its very nature, focuses on civilian uses, a diversion to military uses provides adequate basis to cancel the licensing agreement and prevent the further export of spare parts and technical expertise to keep the plant or project in operation—regardless of end-use statements and safeguards.

There has been some controversy within the Commerce Department over what is meant by the "conditions of a license." The conference report inserts this language in my amendment. However, it is still not clear what those words mean. I hope that the conference does not only mean what is written on the license itself or what is attached to a license, as in the case of special computer conditions. Does the language introduced by the conferees, which prohibits diversion "in violation of the conditions of a license," include the end-use statement as part of these conditions?

I assume that "conditions" includes all restrictions or certifications of end-use pertaining to a certain license and kept in the Commerce Department file on that license. Restrictions and certifications and any signed agreement as to the end-use of a U.S. export are defined in the Export Administration Regulations to "be continuing in effect." I assume that the end-use statement, which is attached to an application for a license, and is signed by the foreign purchaser as a form of assurance that he will use the U.S. product only for the stated end-use is included in the meaning of the new language introduced by the conferees.

Also by "conditions of a license," I hope the conference means that all licenses issued for dual-use technologies under the national security policy provisions of the act will contain clear conditions preventing the use of such items for significant military use. Did the conference intend to require that all validated licenses issued under national security provisions contain restrictions preventing the significant military use of the item and to require that these restrictions be part of the conditions of every such license? I certainly expect this to be the case.

I assume the new language implies that any product or technology which could possibly be used for significant military use is either denied or at least has clear restrictions attached to the license preventing the use of that item for significant military purposes.

The term "reliable evidence" is still maintained in the conference.

I trust the conference defines the term "reliable evidence" to mean when the administration has reason to believe that a diversion is taking or has taken place. It does not mean that the administration must wait for some third party to make a conclusive, absolute report based on visits to the facility using the U.S. equipment or technology. When dealing with national security issues and with nations like the U.S.S.R., there is rarely absolute proof of anything. The administration must act on those items it has reason to believe are being used for military purposes. As a result, American intelligence agencies must aggressively investigate any allegations that a diversion is taking place. In addition, they must have the attitude that when dealing with Communist nations—if technology can be diverted for military use, it will be.

Mr. Speaker, with all due respect, these provisions must be clarified in the conference language before I can support the bill.

Mr. BINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I just say that I regret that the gentleman from Ohio (Mr. MILLER) feels as he does.

I believe that his amendment has made a substantial contribution to the act. It adds a new dimension to the act, as I have indicated before, and it weakens the act in no way.

I would like to repeat what I said before to the gentleman from Missouri, that the other forms of diversion that the gentleman speaks of are all prohibited under the act, and there are sanctions for them at the discretion of the Secretary.

The Secretary of Commerce and the Secretary of Defense have full authority to limit exports in any way to prevent diversions and to stop exports if there are diversions.

The Miller of Ohio provision is limited to an automatic denial of licenses in a particular given case, and it is limited only to those cases.

I want to assure the gentleman that we have in no way weakened the act by this addition. We have indeed strengthened it.

I yield 1 minute to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Under the Export Administration Act that we are considering right now, would we have any limitation whatsoever in spare parts that would be ordered and sent to the Soviet Union for continued operation of the Kama River truck plant?

Mr. BINGHAM. That would be within the jurisdiction of the Secretary of Defense and the Secretary of Commerce to determine whether those shipments would significantly add to the military potential of the Soviet Union. That is the way it is now. That is the way it would be under the act.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. BINGHAM. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. I thank the gentleman for yielding.

As we conclude debate on this legislation, I would like to take the opportunity to commend the chairman and the ranking member, the gentleman from California, for outstanding work in the 6 months that we have been considering this legislation.

□ 1430

As has been pointed out several times today, it is a very complicated bill and there have been considerable debates on the various aspects of the legislation. But I think what we have come up with is a fair compromise in the conference committee and one that all of us can accept today.

I would also like to commend the staff on both sides for their diligence and their cooperation as we have attempted to bring to an end a long and very constructive debate on a very important bill.

Mr. BINGHAM. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. PEYSER).

(Mr. PEYSER asked and was given permission to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I want to thank the chairman for the opportunity of addressing the House. I want to bring up just one statement and a question very briefly.

As the Members know, the House did adopt the amendment that I offered that invoked the principles of the Monroe Doctrine giving the President the authority to restrict trade with any nation or nations that violated those principles. I was specifically, of course, speaking of the issue of the Russian troops in Cuba and the involvement with wheat that we have with the Russians today.

I notice, Mr. Speaker, that the conference dropped that amendment feeling that the language was too general. It was of interest to me to note that the press around the world on this little amendment that the House passed had it on the front page of the international edition of the Herald Tribune, it was on the front page of the papers in Great Britain and France and Germany, and as well it was on the front page of the New York Times. So it seemed to touch a cord among people around the world that we in Congress were responding in a way to an issue of critical importance.

But the question, Mr. Speaker, is I do notice that the conferees say at the bottom that they do not wish to preclude the use of the authorities under this act. I assume what they are saying is that they are not opposing the President using these types of restrictions if he feels it necessary under the principles of the Monroe Doctrine.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. BINGHAM. That is certainly correct. The gentleman is absolutely correct.

Mr. PEYSER. Because the Senate itself, as I know the chairman knows, in

September 28, 1979

## CONGRESSIONAL RECORD—HOUSE

H 8719

1962 invoked exactly the same principle in legislation and enacted it, so I appreciate the chairman's comment.

While I am disappointed that the amendment was dropped, at least the thrust of it remains in the conference report.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DORNAN).

(Mr. DORNAN asked and was given permission to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I also want to join with some of my colleagues in congratulating the chairman and my friend, the distinguished ranking minority member of this committee for dealing with a very difficult bill in a very difficult set of circumstances. Despite the fact that our discourse on the floor was interrupted over a period of days skipping from week to week, your chairmanship was superb. It goes without saying and everyone is agreed here that by the sheer nature of the beast, export controls on high level technology is one of the toughest subjects this House has ever wrestled with. In short, we are between a rock and a hard place. I have never seen a more difficult juggling act than that of trying to increase American exports to the world, given the shortfall in our balance of payments, while simultaneously restricting the transfer of these intricate high technologies to the Communist world. In the Soviet Union, Lenin, their god-figure, whose portrait is on every wall, in every latrine in every public building, said so clearly, delineating their utter contempt and hostility toward the West, that we would sell them the rope with which they would hang us.

In just a few remaining seconds, I would like to point out that I have some very controversial letters here. I bless all of my colleagues here for the Freedom of Information Act, which was passed before I was elected. I was able to get hold of some sensitive letters through a distinguished journalist in this country, letters between the Secretary of Commerce, Juanita Kreps—and I do not think the fine lady is qualified for her job—and some of the committees and some of her staff pertaining to this delicate problem. I am going to have to go through these for reasons of confidentiality, and talk with people who are more familiar with the intelligence implications than I am, and determine what I can put into the Record.

In the spirit of the excellent bipartisanship we enjoy on this committee, let me make a criticism of a past administration.

The Commerce Department's response to the testimony of Acting Director Lawrence Brady was truly incredible. We were treated to a first rate lesson in bureaucracy. When the Acting Director of the Office of Export Administration testified that technologies and goods being licensed for export to the Soviet Kama River truck plant were being diverted to military purposes, Secretary of Commerce Juanita Kreps flatly denied it. She said that there was no diversion at the Kama River truck plant because

there were no end-use restrictions on the licenses that were violated. Since no restrictions had been imposed, military use of the equipment was not a violation.

In a letter to Senator HENRY JACKSON, Secretary Kreps wrote:

A diversion occurs only when end-use restrictions pertaining to a license are violated. The Kama River truck plant licenses were issued during the Nixon administration and contained no restrictions which we can identify limiting the use of the trucks and engines produced at the factory. Accordingly, military use of the trucks or engines produced at the Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines.

When I read this passage, I could hardly believe my eyes. Is the Secretary of Commerce saying that the United States was shipping goods and technologies to the Soviet Union, with a potential military value, without any restrictions at all on their military use? If that is, or was, the case, it is simply outrageous. It is even more outrageous than the semantic game that diversions to military use are really not diversions simply because they were not anticipated by the Export Control Administration. But the source of my own outrage goes deeper: The Soviet Union was supplying North Vietnam with both weapons and vehicles at the very time that we were exporting goods and technologies to the Kama River plant. This was, and is, a national scandal.

Then I asked myself: "Could this really be true?" Were there no restrictions? Or are we getting the proverbial bureaucratic runaround from the Department of Commerce?

Consider some relevant facts:

Item: In March 1975, the West German Government expressed fears that American-made computer equipment at the Kama River plant would be used for military purposes. Then-Secretary of State Henry Kissinger sent a confidential cable to representatives of the Organization for Economic Cooperation and Development in Paris, assuring the Europeans that American-made computers sold to the Soviets would not be involved in the production of military vehicles at Kama River.

Item: A license was issued on November 30, 1971, for the Kama River truck plant—the end use statement read: "Manufacture of trucks for civilian use."

Item: A license for equipment was issued on September 23, 1971, for several million dollars worth of equipment; the end use statement read: "Manufacture of Commercial Vehicles."

Item: A license was issued for the multimillion dollar sale of equipment on December 21, 1971, for the Kama River project. The end use statement read: "Manufacture of heavy-duty trucks for civilian use."

What can we conclude? First, there were, contrary to Secretary Kreps' assertions, licenses issued with end use restrictions. Second, at the highest levels of Government there was expressed concern over the use of sophisticated equipment, including computer equipment, for military purposes. Third, exported items

were indeed diverted by the Soviets to military use. And finally, as the distinguished chairman of the House Armed Services R. & D. Subcommittee has asserted Export Administration control is—indeed—in a shambles.

So I hope when we try to perfect similar legislation in the future, Mr. Chairman, that you will be as gracious as you have been on the House floor in this subcommittee to those of us, any of us, who have an interest in this area. I would like to counsel with you, both before the committee and in private, to try and figure out how we can accomplish this supremely difficult juggling act of encouraging exports and, at the same time, protecting the Western world.

Advanced technology creates some amazing legislative circumstances. I refer for example, Mr. Speaker, to our own districts and the great Northrop F-18 "Hornet" fighter aircraft. The G.E. engines are made in the district of the distinguished Speaker of this House while on the other coast, almost 3,000 miles away, in my district those engines are mated with the entire F-18 fighter system.

I am impressed by the unusual legislative brotherhoods that are forged here, in spite of other deep divisions on public policy. I thank my friend from California for yielding this time.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield to me?

Mr. DORNAN. I am happy to yield to the gentleman.

Mr. LAGOMARSINO. I would like to congratulate the gentleman for all of his efforts on behalf of this bill. I think some of the amendments that the gentleman offered have made substantial improvements to the legislation. I look forward to working with him during the time of the existence of this act, during the next 4 years, and I know and trust that he will be here to help us improve this bill further.

Mr. DORNAN. I thank the gentleman and I thank the chairman.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, when this bill came out of the committee I thought it was a slight improvement over the present act because it offered American exporters, business people, a chance to have an expedited process, and it offered all of us some hope of increasing our exports.

On the floor, however, it has been subjected to a number of amendments which have stuck and have stuck in conference, and the bill is now in such shape that I really doubt whether it is an improvement, whether it will help us improve our exports or not. All of us know we are carrying a heavy deficit, that that deficit will increase because of the price of our needs, because of the price, high cost of petroleum which we will need for our energy requirements.

Because that bill is too tough, I would normally vote against it, primarily because it is too tough on our smaller com-

H 8720

## CONGRESSIONAL RECORD—HOUSE

September 28, 1979

panies which have enough difficulty finding ways to export anyway. But since the Export Administration Act expires at the end of this month I think we have no choice. We cannot operate without an Export Administration Act and, therefore, I am going to support it.

Mr. Speaker, I would also like to commend the gentleman from New York (Mr. BINGHAM) and the gentleman from California (Mr. LAGOMARSINO), for excellent work on a very difficult subject. I hope in future years we may develop a way to encourage American companies to export so that we can put more Americans to work. To me it is a shame to worry about the technology of building trucks, which seems to me to be not a terribly technically advanced kind of work. I suppose if we have a war they can nail us with a hit-and-run offense or something.

But it seems to me we waste a lot of time worrying about technology which has no military application. We ought to worry more about making sure that American jobs are protected by export and that the American balance of trade is protected. Therefore, the American dollar is protected.

I shall vote for the bill with some reluctance, and I hope in the future we may get a more reasonable way to try and encourage exports from this country.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think this has been a very good debate. I think we have made some legislative history and I hope we have allayed some concerns.

With regard to the statements of my good friend from Minnesota (Mr. FRENZEL) I respectfully disagree. I think that the bill is a substantial improvement over present law for the export community. I think we have clarified the law, we have imposed some deadlines, we have made it very clear not only in the bill but I think, even more importantly, in our hearings, to the Department of Commerce and to the Department of Defense that we expect them to act expeditiously, we expect them to get rid of unnecessary redtape. We expect them to issue all of the licenses that are applied for, except those where there is a national security problem.

□ 1440

With regard to the concern of the gentleman from Ohio (Mr. MILLER), I appreciate that concern, but I really, in all due deference, disagree with his conclusions. I think that the amendment that was put in the bill, the substitute for his amendment, is a substantial improvement in the law and does not affect any of the existing authorities of the Department of Defense or Department of Commerce.

I would like to quote at this time and read into the RECORD the statement of the managers with respect to this very issue:

The committee of conference experts that the executive branch will institute procedures that assure that export licenses for controlled goods or technology will clearly specify that such goods and technology will be used only for uses which would not make a significant military use in violation of license conditions, the President will be required to take appropriate actions.

I might add at this point that there is no similar provision in existing law.

I quote further:

This provision is not intended to limit in any way the President's discretion under the act to take appropriate action to terminate diversion of exported items to military use even if such diversion does not technically constitute a violation of license condition of action to protect U.S. national security is not constrained in situations in which, through oversight or negligence, the Government fails to specify conditions of end-use of exported or licensed goods or technology.

I would just like to conclude by pointing out that Senator HENRY JACKSON of Washington, who has been one of the most vigorous proponents of restricting the export of technology to our adversaries, particularly the Soviet Union, is, as I understand it, very pleased with the final legislation.

Mr. Speaker, I urge my colleagues to adopt the conference committee report.

(Mr. MILLER of Ohio asked and was given permission to revise and extend his remarks.)

## GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report under consideration.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BINGHAM. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 321, nays 19, not voting 93, as follows:

[Roll No. 523]

## YEAS—321

Abdnor	Benjamin	Burton, Phillip
Addabbo	Bennett	Butler
Akaka	Bereuter	Byron
Albosta	Bethune	Campbell
Ambro	Bevill	Carney
Anderson, Calif.	Bingham	Carr
Andrews, N.C.	Blanchard	Chisholm
Andrews, N. Dak.	Boggs	Clausen
Annunzio	Boland	Clay
Anthony	Boner	Clinger
Applegate	Bonior	Coelho
Archer	Bonker	Coleman
Aspin	Bouquard	Conte
Atkinson	Bowen	Corcoran
Badham	Brademas	Coughlin
Bafalis	Brinkley	Courter
Ballley	Brodhead	Daniel, Dan
Baldus	Brooks	Daniel, R. W.
Barnes	Broomfield	Danielson
Beard, R.I.	Brown, Calif.	Dannemeyer
Bedell	Broyhill	Daschle
Bellenson	Buchanan	Deckard
	Burgener	Dallums
	Earlson	Derrick

Dicks	Jones, Okla.	Pursell
Dingell	Jones, Tenn.	Quayle
Dixon	Kastenmeier	Rahall
Dcdd	Kazen	Rallsback
Donnelly	Kildee	Rangel
Dougherty	Kogovsek	Ratchford
Drinan	Kostmayer	Regula
Duncan, Oreg.	Kramer	Rinaldo
Duncan, Tenn.	LaFalce	Ritter
Early	Lagomarsino	Robinson
Eckhardt	Leach, Iowa	Rodino
Edgar	Leach, La.	Roe
Edwards, Ala.	Leath, Tex.	Rostenkowski
Edwards, Calif.	Lederer	Rousselot
Emery	Lee	Roybal
English	Lehman	Royer
Erdahl	Leland	Runnels
Erlenborn	Levitas	Russo
Ertel	Lewis	Sabo
Evans, Del.	Livingston	Santini
Evans, Ga.	Loeffler	Sawyer
Evans, Ind.	Long, La.	Scheuer
Fary	Long, Md.	Schroeder
Fascell	Lott	Schulze
Fazio	Lowry	Selberling
Fenwick	Lujan	Sensenbrenner
Ferraro	Luken	Shannon
Findley	Lungren	Sharp
Fish	McCloskey	Shelby
Fisher	McCormack	Shumway
Fithian	McDade	Simon
Flippo	McEwen	Slack
Florio	McHugh	Smith, Nebr.
Foley	McKay	Snowe
Ford, Mich.	McKinney	Snyder
Ford, Tenn.	Madigan	Solarz
Forsythe	Markey	Solomon
Fountain	Marlenee	Spellman
Fowler	Marriott	Spence
Frenzel	Martin	Stack
Frost	Mathis	Staggers
Gaydos	Matsui	Stangeland
Gephardt	Mattox	Stanton
Gibbons	Mavroules	Stark
Gilman	Mica	Stenholm
Ginn	Michel	Stewart
Glickman	Mikulski	Stratton
Goldwater	Miller, Calif.	Studds
Gonzalez	Mineta	Swift
Goodling	Mitchell, Md.	Synar
Gore	Moakley	Tauke
Gradison	Mollohan	Taylor
Gramm	Montgomery	Thompson
Grassley	Moore	Traxler
Gray	Moorhead, Calif.	Trible
Green	Moorhead, Pa.	Ullman
Grisham	Murphy, Pa.	Van Deerin
Guarini	Murtha	Vander Jagt
Gudger	Myers, Ind.	Vanik
Guyer	Myers, Pa.	Vento
Hagedorn	Natcher	Volkmer
Hall, Tex.	Neal	Walgren
Hamilton	Nedzi	Walker
Hammer	Nelson	Wampler
schmidt	Nichols	Watkins
Harkin	Nolan	Waxman
Harris	Nowak	Weiss
Harsha	O'Brien	White
Hawkins	Oakar	Whitley
Heckler	Oberstar	Whittaker
Hefner	Obey	Whitten
Heftel	Ottinger	Williams, Mont.
Hightower	Panetta	Wilson, Bob
Hopkins	Patten	Wilson, Tex.
Howard	Patterson	Wirth
Hubbard	Pease	Wolpe
Hughes	Pepper	Wright
Hutto	Perkins	Wyatt
Hyde	Petri	Yates
Ichord	Peyser	Yatron
Jacobs	Pickle	Young, Fla.
Jenkins	Preyer	Zablocki
Jenrette	Price	Zeferetti
Johnson, Calif.	Pritchard	
Jones, N.C.		

## NAYS—19

Ashbrook	Hansen	Rudd
Bauman	Holt	Satterfield
Derwinski	Jeffries	Stump
Devine	Kelly	Weaver
Dickinson	McDonald	Young, Alaska
Dornan	Miller, Ohio	
Edwards, Okla.	Paul	

## NOT VOTING—93

Alexander	Bolling	Cheney
Anderson, Ill.	Breaux	Cleveland
Ashley	Brown, Ohio	Collins, Ill.
AuCoin	Burton, John	Collins, Tex.
Barnard	Carter	Conable
Beard, Tenn.	Cavanaugh	Conyers
Biaggi	Chappell	Corman



September 28, 1979

## CONGRESSIONAL RECORD—HOUSE

H 8721

Cotter	Ireland	Roberts
Crane, Daniel	Jeffords	Rose
Crane, Philip	Johnson, Colo.	Rosenthal
D'Amours	Kemp	Roth
Davis, Mich.	Kindness	Sebellus
Davis, S.C.	Latta	Shuster
de la Garza	Lent	Skelton
Diggs	Lloyd	Smith, Iowa
Downey	Lundine	St Germain
Ficod	McClory	Steed
Fuqua	Maguire	Stockman
Garcia	Marks	Stokes
Glaime	Mazzoli	Symms
Gingrich	Minish	Thomas
Hall, Ohio	Mitchell, N.Y.	Treen
Hance	Moffett	Udall
Hanley	Motti	Whitehurst
Hillis	Murphy, Ill.	Williams, Ohio
Hinson	Murphy, N.Y.	Wilson, C. H.
Holland	Pashayan	Winn
Hollenbeck	Quillen	Wolff
Holtzman	Reuss	Wylder
Horton	Rhodes	Wyllie
Huckaby	Richmond	Young, Mo.

□ 1500

Mr. ROUSSELOT changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### THE ENERGY CONSERVATION AND RENEWABLE RESOURCE ACT

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I am joining together today with my good friends and colleagues HARLEY STAGGERS and JOHN DINGELL in introducing legislation which, I am convinced, will greatly accelerate the weatherization and solarization of American homes and businesses. The entire emphasis of the legislation is on achieving the conservation, more efficient use of energy, and the greater utilization of renewable energy resources which now is clearly recognized as our best and most appropriate energy path over the next decade.

Whether one reads the Harvard Business School study, the recent work issued by the Carnegie Mellon Institute, the Council on Environmental Quality, the Princeton Center for Energy and Environmental Studies, the Ford Foundation, or the Union of Concerned Scientists, it is absolutely clear that energy conservation and renewable resources is the most effective clean and rapid way to reduce our reliance on imported oil and, thus, alleviate our horrendous inflation rate. The problem is how to achieve these goals I would like to share with my colleagues a brief summary of the provisions of our legislation, which is designed to make it easy for the homeowner and commercial enterprise to obtain, finance, and maintain energy saving solar devices.

Two basic options are provided in the bill: First, utility involvement in energy conservation and renewable energy resources, with installation by independent contractors; the determination as to the method to be used by utilities for financing would be left to State regulatory authorities; and second, grants to residential and small commercial consumers for part of the cost of conservation of renewable energy measures—

after completion of the work and verification by utility auditors.

The legislation we are introducing today is designed to mesh with programs already contained in the National Energy Act and other energy laws and, in some cases to improve those acts. Specifically, our bill will delete the provisions of existing law that utilities may not finance or install energy conservation measures. Utilities are already serving every household and doing energy audits. They are in a good position to arrange for obtaining, financing, and maintaining solar and energy-saving measures. In many parts of the country it makes sense for utilities to be directly involved, because financing energy conservation measures is cheaper than adding expensive, new generating capacity.

In several parts of the country, most notably in Portland, Oreg. and in the Tennessee Valley, utilities are involved in energy conservation very successfully.

Our bill does not do what the administration suggested earlier this summer, which is to make a utility program mandatory. Rather, our legislation is permissive, and leaves to State regulatory commissions the determination as to the form of utility involvement and methods of financing. This leaves appropriate latitude to the State regulatory authorities, which are the agencies most closely familiar with utility operations and finance. Under our legislation, the State commissions could determine whether to allow a utility to charge all customers for the conservation and renewable energy measures—assuming that rates would rise less under such a program than they would rise without such a program; or consider the investments as an operating expense; or charge the individual customer or arrange financing for that person.

A key feature of the legislation is that we require not only the energy audit now called for under the National Energy Act, but also a second audit after the conservation or renewable energy measures are installed, so as to assure consumers of high-quality work. We also provide for the possibility of maintenance of the equipment installed by or through the utility. This can overcome a major obstacle to installation of solar and other equipment—consumer concern about its reliability and maintenance.

A second provision of the bill establishes a program whereby the Secretary of Energy can provide grants to homeowners of up to \$500, or 25 percent of the project's cost—whichever is less—for installing energy conservation or renewable energy measures. Grants in the same amount would be available also to small commercial customers. For multiple family housing, we would provide for grants of up to \$150 per unit. As with the utility program, we would require audits both before and after completion of the work, so as to assure a satisfactory result.

In order further to assure quality workmanship, installers of energy conservation measures or renewable energy devices would have to be approved by the States to qualify for participation in our program.

I believe the legislation we are introducing today adds some new programs which, while modest in terms of Federal expenditures, will go a long way toward moving us on the path to energy independence. No matter how people may feel about synthetic fuels or other alternative energy production, it is clear that they cannot make a difference during the next decade. In the near future, we must adopt measures to put conservation and renewables into widespread use. This bill attempts to achieve that goal. It is my sincere hope that, during the coming days and weeks, my colleagues will give serious consideration to cosponsoring and supporting the legislation.

#### TEAMSTERS PENSION FUND TRUSTEES UP TO OLD TRICKS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, I am distressed with news that the present trustees of the Central States Teamsters pension fund are up to the fund's old tricks—and the word "tricks" is a mild way to describe it.

The trustees are proposing to settle a lawsuit with Mr. Morris Shenker by giving Mr. Shenker's firm a \$90 million loan. Under the November 1977 agreement with the Internal Revenue Service and the Department of Labor, the trustees are not supposed to give loans. Instead, the assets of the fund are supposed to be managed by the Equitable Life Assurance Co., with western assets under the control of the Victor Palmieri Co. of California.

Today I am sending an urgent letter to the Secretary of Labor, Ray Marshall, urging him to reject this settlement proposal. I do so in the hopes that the worthwhile actions of the Government early in the days of Secretary Marshall's tenure are not undone by the cavalier, legally scheming trustees of the Central States pension fund.

I include a copy of the letter in the CONGRESSIONAL RECORD:

Secretary RAY MARSHALL,  
U.S. Department of Labor,  
Washington, D.C.

DEAR MR. SECRETARY: I write to urge that the Department of Labor refuse, with the strongest voice possible, the conditional settlement proposed by the plaintiff and defendant trustees of the Central States Pension Fund in the case M and R Investment Company, Inc., v. Frank C. Fitzsimmons, et al.

The case is presently pending before Judge Foley of the U.S. District Court for the District of Nevada (Civil L.V. 76-114 RDF).

Briefly, the settlement would allow the Central States Fund to loan \$90 million to M and R Investment Company, Inc., which is controlled by Mr. Morris Shenker, the plaintiff.

This man has an unsavory background, and it was the loaning of money to characters like this that got the Fund in trouble in the first place.

This proposed settlement is a clear indication that the present trustees want to take the fund back to the days when the money of working men and women of the Teamsters Union was at the beck and call of people with very questionable reputations.

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## CONGRESSIONAL RECORD—HOUSE

September 28, 1979

When the opportunity present itself, I will try to discuss this personally with you. I know that you will continue to try to complete the work that you started in 1977 with such high hopes that this fund was being placed in good management hands.

Your attention to this is appreciated.

Sincerely yours,

J. J. PICKLE.

# CONFERENCE REPORT ON S. 237, FEDERAL MAGISTRATE ACT OF 1979

Mr. KASTENMEIER. Mr. Speaker, I call up the conference report on the Senate bill (S. 237) to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the order of the House of September 25, 1979, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of September 19, 1979.)

The SPEAKER. The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 30 minutes.

The Chairman recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I would like to yield at the outset so much time as he may require to the gentleman from New Jersey, the distinguished chairman of the Committee on the Judiciary (Mr. RODINO).

(Mr. RODINO asked and was given permission to revise and extend his remarks.)

Mr. RODINO. Mr. Speaker, at the outset I would like to commend the chairman of the subcommittee Mr. KASTENMEIER and the ranking minority member Mr. RAILSBACK for the diligent and conscientious manner in which they have pursued this important piece of legislation during the 95th and 96th Congresses.

As sponsor of the original bill during the last Congress, as chairman of the Committee on the Judiciary, and having closely followed the development of this legislation, I am pleased to come before the House in support of the conference report on S. 237. Passage of magistrates reform legislation is long past due.

The House and Senate versions of S. 237 were substantially the same and therefore every few issues had to be resolved in conference. Those resolved in conference were very close to the House amendment.

The Committee on the Judiciary believes that it has an affirmative and continuing obligation to weigh the constitutionality of any and all pieces of legislation before it. We have done this and would like to express your view that the conference report is constitutionally sound. The conference agreement has preserved the core of the House's work product: That right to appeal be available to an article III tribunal and that the magistrate's jurisdiction be entirely consensual.

Further, the magistrate remains an adjunct to the district court. He cannot

try a case without designation by the court and at all times the court maintains power to try the case itself.

I commend the chairman of the subcommittee for his work in this area. He inquired with great care into any possible constitutional objections. He reviewed the printed records from the Senate and House hearings on the 90th, 94th, and 95th Congresses during which this question was also examined. Likewise, he reviewed our own reports from the 90th to the 95th Congresses. The committee also reviewed a 1968 Senate study on the constitutionality of trial of minor offense by magistrates, two detailed memoranda prepared by the Department of Justice which concluded that no such impediment existed, and a comprehensive study conducted by the Judicial Conference Committee on the administration of the Federal Magistrates System which concluded that the proposed legislation was clearly constitutional.

I have given close attention to this question and have concluded that the conference agreement not only satisfies the Constitution but is good legislation from a policy perspective. It provides the Federal judiciary with an important tool to meet its assigned tasks. Further, it increases the flexibility of the Federal judicial system and helps it confront constantly changing local needs. Lastly, it provides access to justice for individuals who presently have to wait years for resolution of their cases.

In conclusion, this conference report will improve the administration of justice in this country. I wholeheartedly recommend its approval.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I would like to know if under this bill a district judge can assign any type of case, either criminal or civil, to a magistrate with the consent of the parties.

Mr. KASTENMEIER. Mr. Speaker, if my chairman will yield.

Mr. RODINO. I yield.

Mr. KASTENMEIER. Mr. Speaker, the answer is "yes," in terms of general categories, criminal or civil.

Under this bill, the judge may not assign particular categories, like social security cases only, or other types of cases. We have precluded that for purposes of refusing to permit the categorization of justice. In other words, justice must be rather uniformly and equally applied. In brief, the judge may assign criminal and/or civil matters, not necessarily both.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield further, this is what I was wondering. Is there any limitation on the type of case the district judge may assign to a magistrate?

Mr. KASTENMEIER. Mr. Speaker, if the gentleman will yield further, other than a felony criminal case, the magistrate may try any civil matter and any criminal misdemeanor.

Mr. KAZEN. The district judge keeps jurisdiction over all felonies?

Mr. KASTENMEIER. Over all felonies, yes.

Mr. KAZEN. Mr. Speaker, I thank the gentleman.

Mr. RODINO. Mr. Speaker, is not the jurisdiction entirely consensual in all cases?

Mr. KASTENMEIER. Yes; under this bill, I would add that even in the criminal misdemeanor and the minor offense matters, the jurisdiction exercised by the magistrate is entirely consensual, as it is with all civil matters. If a person wants to exercise the right to appear before a district judge, nothing can prevent him from getting a district judge.

Mr. RODINO. Mr. Speaker, I urge adoption of the conference report.

Mr. KASTENMEIER. Mr. Speaker, at this point in time, with the indulgence of the House, I would like to yield to the gentleman from Indiana (Mr. BRADEMAS) to speak out of order.

(By unanimous consent, Mr. BRADEMAS was allowed to speak out of order.)

## LEGISLATIVE PROGRAM

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman from Wisconsin for having yielded.

I take this time simply to announce for the benefit of the Members of the House that the conference committee is now working on the continuing resolution in conference. We are not now sure whether they will be able to resolve that issue, but we are hoping that they are able to do so.

The other observation I would make is that it is not likely that the House will be meeting tomorrow.

I believe the gentleman from Illinois (Mr. MICHEL), the distinguished minority whip, had a question.

I yield to the gentleman.

Mr. MICHEL. Mr. Speaker, might I take this occasion to inquire of the distinguished majority whip the tentative schedule then, since we have taken this rare break, and maybe those other questions will be answered.

Mr. BRADEMAS. Yes. I might say to the gentleman that there are still some items on the agenda for today, including, for example, the conference report on the District of Columbia appropriations bill; but to respond to the gentleman in connection with the program for the week of October 1—

Mr. MICHEL. Mr. Speaker, might I first inquire, has the emergency medical services bill been pulled for today?

Mr. BRADEMAS. That, I would say to the gentleman from Illinois, depends upon the intention of the chairman of the committee handling that bill. It is still on the agenda. It would be up to the chairman of the committee whether he would wish to call it up after we have disposed of the bill under consideration.

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But if the gentleman would like, I would be glad to give him the information for next week.

Mr. MICHEL. Yes.

Mr. BRADEMAS. Mr. Speaker, on Monday, October 1, the House is not in session.

On Tuesday, October 2, the House meets at 10 a.m., but there is no legislative business scheduled.